IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

WEDNESDAY, THE TWENTY SECOND DAY OF SEPTEMBER
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE V.V.S.RAO

WRIT PETITION NO : 9482 of 2004

Between:

Kurva Mallesh Goud, S/o Sivanna,
R/o. D.No. 140, Adoni, Kurnool District.

..... PETITIONER

AND

1 The District Collector, Kurnool District, Kurnool.
2 Adoni Municipality, Adoni. Kurnool District, Rep. by its Commissioner.
3 Syed Javeed Anwar, S/o. Syed Moulani Saheb,
Municipal Counsellor, Adoni Municipality, Kurnool District.
4 K. Ranganna, S/o. K. Narasappa, Municipal Counsellor,
Adoni Municipality, Kurnool District.
5 M. Vali Basha, S/o. Basheer Ahmed, Municipal Counsellor,
Adoni Municipality, Kurnool District.
6 G. Sanjay, S/o. G. Hanumanthappa, Municipal Counsellor,
Adoni Municipality, Kurnool District.
7 G. Nagendra, S/o. Hanumanthappa,
Adoni Municipality, Kurnool District. (RR 3 to 7 are impleaded as per Court Order dated 27-8-2004 in WPMP 15347 of 2004)

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to issue writ or mandamus or any other appropriate writ or direction declaring the proceedings of the 1st respondent issued in Rc.E1.1364/2004, dated -5-2004 as illegal and contrary to the provision of Section 46 of the A.P. Municipalities Act.

Counsel for the Petitioner:MR.O.MANOHER REDDY

Counsel for the Respondent No.1: G.P. for Municipal Administration.
Counsel for the Respondent No.2: MR.K. MAHENDER REDDY
Counsel for the Respondent Nos.3 to 7: MR.K.RATHANGAPANI REDDY

The Court made the following :

THE HON'BLE SRI JUSTICE V.V.S.RAO

WRIT PETITION NO.9482 OF 2004

ORDER:

The petitioner is Vice-Chairman of Adoni Municipality in Kurnool District. Aggrieved by notice issued by the District Collector, first respondent herein, on 25.5.2004, purportedly under Section 46(3) of the A.P. Municipalities Act, 1965 (for short, the Act), petitioner invoked the jurisdiction of this Court under Article 226 of the Constitution of India seeking invalidation of the impugned notice dt.25.5.2004. The impugned notice annexed to the Writ Petition reads as under:

Whereas, a notice of intention to make a motion expressing want of confidence in the Vice-Chairperson of Sri K.Mallesh Gowd, Municipal Council, Adoni Municipality, Adoni has been delivered to me as required under sub-section (2) of Section 46 of the Andhra Pradesh Municipalities Act, 1965.

Now, therefore, under sub-section (3) of Section 46 of the said Act, I hereby give notice that a meeting of the Municipal Council, Adoni Municipality, Adoni shall be held at the Office of the Municipal Council, Adoni, on 08.06.2004 at 11.00 a.m. for consideration of the said motion of no confidence against the Vice Chairperson.

Please attend to the above meeting on the said date.

When some of the Municipal Councillors delivered a notice of intention to express no confidence under Section 46(2) of the Act, the District Collector under Section 46(3) of the Act is required to convene meeting on a date which shall not be later than thirty days from the date on which the notice under sub-section (2) was delivered by not less than half of the sanctioned strength of the Council. A reading of the impugned notice would show that the District Collector followed sub-section (3) of Section 46 of the Act more in breach, in that, instead of convening meeting on 8.5.2004 meeting was convened long thereafter on 8.6.2004. Be that as it is,

subsequent to filing of the Writ Petition, the District Collector also acted in contravention of sub-section (3) of 46 of the Act in re-scheduling meeting on 17.7.2004. As per the said provision the meeting ought to have been convened on 23.6.2004. These two infirmities are not denied by the learned Assistant Government Pleader for Municipal Administration or the learned counsel for respondents 3 to 7, who are impleaded subsequently. Therefore, the impugned notice is unsustainable.

The Writ Petition for the above brief reasons is allowed, and first respondent is restrained from proceeding with any further action pursuant to notice issued by the Municipal Councillors on 9.4.2004. There shall be no order as to costs.

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(V.V.S.RAO, J)

22.9.2004

bnr

The Rule Nisi has been made absolute as above.

Witness the Hon'ble Sri Devinder Gupta, the Chief Justice on this

Wednesday, the Twenty Second Day of September Two Thousand and Four

ASSISTANT REGISTRAR

To

1 The District Collector, Kurnool District, Kurnool.
2 The Commissioner, Adoni Municipality, Adoni. Kurnool District.
3 2 CD copies.

4. 2 CCs to G.P. for Municipal Administration, High Court Buildings,

Hyderabad (OUT).